

**Task Force on Judicial Selection and Retention
Commission for Impartial Courts**

**Judicial Council Conference Center
San Francisco, California
455 Golden Gate Avenue
San Francisco, CA 94102**

September 11, 2007
8:30 – 11:30 a.m.

Summary of Meeting

Members present: Hon. Ronald B. Robie, Chair, Mr. Ralph Alldredge, Mr. Chris Arriola, Hon. H. Walter Croskey, Hon. Marguerite D. Downing, Hon. Bonnie M. Dumanis, Hon. Kim Garlin Dunning, Mr. William I. Edlund, Mr. J. Clark Kelso, Mr. Jack Londen, Mr. John Mendes, Hon. William J. Murray, Jr., Hon. Chuck Poochigian, Hon. Edward Sarkisian, Jr., Mr. Roman M. Silberfeld, Ms. Sharon Strickland, Hon. Sharon J. Waters.

Members absent: Hon. Terry B. Friedman, Ms. Victoria B. Henley, and Hon. David S. Wesley.

Task Force Consultant: Mr. Seth S. Andersen

Staff present: Mr. Michael Fisher, Staff Counsel, and Ms. Geraldine Dungo, Administrative Coordinator.

1. *Review of Task Force charge generally and relation to overall Commission charge; what is and what is not included within charge*

Background:

The Task Force on Judicial Selection and Retention is charged with evaluating and making periodic reports and final recommendations to the steering committee regarding any proposals to improve the methods and procedures of selecting and retaining judges and regarding the terms of judicial office and timing of judicial elections. The Task Force reviewed the flow charge and relationships between the four task forces and the Steering Committee.

A question was raised whether retention considerations should include such matters as benefits and salary of judges in terms of have sufficient persons of high quality seeking to become judges.

Action:

The Steering Committee will be requested to respond to the Task Force as to whether retention considerations such as benefits and salaries are within the charge of the Task Force.

2. Issues to be addressed under the charge

Background:

The Task Force discussed what issues might be considered properly within the charge of the Task Force regarding any proposals to improve the methods and procedures of selecting and retaining judges and regarding the terms of judicial office and timing of judicial elections. A staff document listing potential issues was considered by the task force and those issues were generally accepted with some modifications and additions. A revised list of potential issues is attached to this summary of actions.

The Task Force considered which subjects should be considered for discussion under various topics as follows:

Selection of judges

Commission-based appointing system (“Merit selection”)

The task force heard that there while there is classically one view of a “merit selection” system, namely a system where there is a commission-based pre-selection or nomination of candidates, there are many different variations on this.

The Task Force asked for an analysis from its consultant concerning the variations on a commission-based selection system.

Commission evaluation of candidates

The task force added to the potential issues on selection of judges, the release of the JNE evaluation when an appointment is made by the Governor, to increase transparency of the selection process.

Elimination of open elections

This proposal appeared as part of the initial proposals in the staff draft of amendments to Article VI in February, 2005. It would provide that the Governor would appoint a person to a judgeship when the incumbent does not seek reelection. Under current law an open, contestable election occurs.

Qualifications for judicial office

The task force voted to consider whether any of the following requirements should be added to the current requirements to become a judge:

- Change “member of the bar” to “practicing law;” active versus inactive membership
- United States citizenship
- California residency (and how defined). Note that there was an additional suggestion that a person need not be a resident at time of appointment but only after taking office.
- Consideration of 10 year experience requirement and effect on diversity

Increasing diversity on the bench

Diversity factors that should be supported include the following: (Note that the Task Force agreed that while none of these factors should be the basis of a “test” for being appointed judge, it is desirable that the bench be reflective of the state)

- Race
- Religion.
- Gender
- Sexual orientation
- Geography
- Type of legal experience
- Public or private practice
- Political preference

Increasing diversity also involves active recruitment of potential applicants for judgeships from among those groups that are not adequately reflected on the bench.

Consideration of the effect of diversity on those involved in the nomination and evaluation process.

Evaluation/screening

- Official vs. unofficial evaluation
- Evaluation at time of initial appointment
- Evaluation at time of consideration of continuation in office
- Evaluation of non-judge declaring candidacy
- Evaluation for retention election, contested election, or both

Action:

Justice Robie asked Mr. Andersen to produce a summary detail on history in California or judicial selection to have a general outline to start the discussion.

Continuation in office

- Length of term of office -- should this be extended beyond 6 years
- Contestable election
- Time between appointment and first continuation election

- Method of treating uncontested contestable election
- Retention election
 - Expand to trial courts
 - Not on ballot unless triggered by what means
- Appellate court retention elections every 2 years rather than every 4 years.

3. *Discussion of future meeting plans*

Next meeting is on November 5, 2007, at 10:00 am in Northern/Central Regional Office in Sacramento. It will consider the pros and cons of each of the issues on the discussion list.

Consensus time for any needed conference calls is 4:00 – 5:00 pm.

The third meeting of the task force (January-February 2008), will come to a final decisions on the recommendations concerning judicial selection and retention for submission to the Steering Committee together with the reasons for each recommendation.

The meeting was adjourned at 11:30 a.m.